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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LABOUR

NOTIFICATION

New Delhi, the 15th March 1975

S.O. 141(E).—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the arbitrator in the industrial dispute between the employers in relation to the Korba Aluminium Project, Bharat Aluminium Company Limited, Korba and their workmen represented by Bharat Aluminium Mazdoor Sangh, Balco Mazdoor Congress and Sanyukta Khadan Mazdoor Sangh which was received by the Central Government on the 19th February, 1975.

REFERENCE No. 1/I.T/1973

BETWEEN

Dr. T. B. Singh, General Manager, Korba Aluminium Project, Bharat Aluminium Co. Ltd., Korba

First Party.

AND

1. Bharat Aluminium Mazdoor Sangh, Shri Ram Bilash Shobhnath, General Secretary.
 2. Balco Mazdoor Congress, Shri R. V Kurup, Secretary.
 3. Sanyukta Khadan Mazdoor Sangh, Shri Ajit Singh Verma, President—Second Parties.
- In the matter of a Reference u/s. 10A of the Industrial Disputes Act, 1947.

PRESENT

Shri S. P. Bhargava, Arbitrator.

APPEARANCE.

Shri D. C. Duggal, Dy. General Manager & Shri B. P. Shrivastava, Personnel Manager, for the First-Party.

Shri Ram Bilash Shobhnath, General Secretary & Shri V. S. Yadav, Secretary for the S.P. No. 1.

S.P. No. 2 and 3 absent.

AWARD

This reference shall also be disposed of in accordance with the award given in Reference No. 2/I.T./1973, *Dr. T. B. Singh, General Manager, Korba Aluminium Project, Korba Vs. Bharat Aluminium Mazdoor Sangh, Korba and two others*. Evidence for both the cases was recorded in that case and the point referred to in both the cases was the same and the affected employees who are covered by that award are also the same.

(Sd.) S. P. BHARGAVA,
Arbitrator.

Indore, dated the 6th February, 1975

M. G. P.

REFERENCE No. 1/I.T./1973**BETWEEN**

Dr. T. B. Singh, General Manager, Korba Aluminium Project, Bharat Aluminium Co. Ltd. Korba—First Party.

AND

1. Bharat Aluminium Mazdoor Sangh, Shri Ram Bilash Shobhnath, General Secretary.
2. Balco Mazdoor Congress, Shri R. V. Kurup, Secretary.
3. Sanyukta Khadan Mazdoor Sangh, Shri Ajit Singh Verma, President.—Second Parties.

REFERENCE No. 2/I.T./1973**BETWEEN**

Dr. T. B. Singh, General Manager, Korba Aluminium Project, Bharat Aluminium Co. Ltd., Korba—First Party.

AND

1. Bharat Aluminium Mazdoor Sangh, Shri Ram Bilash Shobhnath, General Secretary.
2. Balco Mazdoor Congress, Shri R. V. Kurup, Secretary.
3. Sanyukta Khadan Mazdoor Sangh, Shri Ajit Singh Verma, President—Second Parties

In the matter of Reference u/s. 10A of the Industrial Disputes Act, 1947.

PRESENT

Shri S. P. Bhargava, Arbitrator.

APPEARANCE.

Shri D. C. Duggal, Dy. General Manager, Shri B. P. Shrivastava, Personnel Manager, for the First Party.

Shri Ram Bilash Shobhnath, General Secretary & Shri V. S. Yadav, Secretary, for the Second Party No. 1.

S. P. No. 2 and 3 absent.

AWARD

This order shall govern the disposal of Reference No. 1/I.T./1973 also as the point referred to for arbitration is common in both the references.

2. On the basis of two agreements between the parties, dated 16-4-1973, the following matter has been referred to this Tribunal for arbitration under Section 10A of the Industrial Disputes Act, 1947 (hereinafter called the Act), *vide* order of reference dated 28-8-1973 and 10-10-1973 made by the Central Government and M.P. State Government respectively.

“Whether withdrawal of Project allowance in part or full with effect from 1-4-1973 is justified and proper? If not, to what relief workmen are entitled to?”

3. The relevant facts may be briefly stated thus. The First Party, Bharat Aluminium Co. Ltd., Korba (hereinafter called the 'company'). *Vide* its Circular dated 24-11-1967 granted Project Allowance to its employees working at Korba and Mining Sites at Phutka Pahar and Amarkantak for a period of one year with effect from 7th October, 1967 at the following rates:—

Pay Range	Rate of Project Allowance
Below Rs. 100 p.m.	25 per cent. of pay
From Rs. 100 upto Rs. 300.	20 per cent of pay
From Rs. 301 upto Rs. 500.	20 per cent of pay subject to a minimum of Rs. 62.50 and a maximum of Rs. 85
From Rs. 501 upto Rs. 600.	Rs. 100
From Rs. 601 upto Rs. 699.	Rs. 120
From Rs. 700 upto Rs. 1299.	Rs. 125
From Rs. 1300 upto Rs. 1599.	Rs. 150
Rs. 1600 and above	Amount by which pay falls short of Rs. 1749.

The Project Allowance was granted for lack of civil amenities such as housing, schools, markets, dispensaries, etc. The document Ex. P/1 on record states the general principle about the grant of Project Allowance. It is specifically mentioned therein that, "The allowance is intended primarily to compensate the staff for lack of amenities such as housing, schools, markets, dispensaries, etc. where reasonable amenities already exist, therefore, there would be no justification for the grant of the allowance." It also states that, "The allowance will not be admissible to staff recruited locally on ad-hoc scales of pay such as daily-rated or casual labour and staff paid from contingencies." In Paragraph 4 of the letter, it is expressly stated that, "The continuance of the allowance would not be justified for the regular staff of the project when the necessary amenities have been provided in the project area. Hence, the allowance sanctioned originally for such staff shall be reduced in stages as the necessary amenities are provided, until it is withdrawn finally." In Ex. P/2, the scales of the Project Allowance, which was ultimately made admissible as quoted above, have been mentioned. This document mentions that the said allowance will be paid "On conditions laid down by Government from time to time regulating the payment of such allowance, with the stipulation that the position will be reviewed from time to time and the Project Allowance progressively withdrawn with the approval of the Board as and when amenities like housing, schools, dispensaries, markets, etc. were developed at Korba/Mining Area." Ex. P/2-A is the resolution of the Board of the Company sanctioning the Project Allowance to the staff of the Company posted at its project. The Circular Ex. P/3 first records the scale at which the Project Allowance was to be paid. The scale mentioned therein is the same as has been stated above in Paragraph No. 3. It makes it clear that "For the purpose of calculating the allowance pay shall include special pay, but shall not include dearness pay, compensatory allowance, deputation pay and/or allowance, or house rent allowance." In Paragraph 7 it has clearly been stated that, "The allowance is intended primarily to compensate the staff for lack of amenities such as housing, schools, markets, dispensaries etc. and it will gradually be withdrawn with the development of the above facilities."

4. The position with regard to the development of amenities and facilities was reviewed from time to time and the Project Allowance was continued for further period beyond the initial period of one year. On 26th September, 1972. *Vide* Ex. P/4, the Chief Personnel Manager of the Company informed the General Manager of Korba Aluminium Project that the Project Allowance for the employees of Korba and the Mining Sites of Phutka Pahar and Amarkantak shall be progressively withdrawn as stated therein. According to the details mentioned in Ex. P/4, 10 per cent of the Project Allowance was to be withdrawn from 1st November, 1972, 15 per cent from 1st April, 1973, 25 per cent from 1st October, 1973 and the remaining 50 per cent from 1st April, 1974. Thus the complete abolition of Project Allowance was envisaged from 1st April, 1974. In pursuance of the decision stated in Ex. P/4, the Company gave a notice of change under Section 9-A of the Industrial Disputes Act to the Second Parties, they being—(1) Bharat Aluminium Mazdoor Sangh; (2) Balco Mazdoor Congress; and (3) Sanyukta—Khan Mazdoor Sangh. The workmen

protested against the notice of change and, therefore, attempts at conciliation were made before the Assistant Labour Commissioner, Bilaspur. These attempts ended in failure on 23rd November, 1972.

5. Eventually, at the intervention of the Labour Minister, Government of Madhya Pradesh, the Company agreed to defer the first cut of 10 per cent from 1st November, 1972 in the Project Allowance of the workmen getting a monthly salary of less than Rs. 1000.

6. The Company then gave a notice of change on 10th March, 1973. A cut of 25 per cent in the Project Allowance was proposed to be made in the notice from 1st April, 1973. The said notice was given under Section 9-A of the Act. Then this notice of change was given, the workmen served a notice of strike, which was to be effective from 29th March, 1973. The industrial dispute which was raised between the parties was then seized by the Assistant Labour Commissioner, M. P. State and the Regional Labour Commissioner (Central) and a settlement was arrived at on 28th March, 1973. This settlement is filed as Ex. D/2 and Ex. D/3 on record. Its important terms are,—

(1) It is agreed that fifty per cent of the amount of Project Allowance as admissible to the existing employees drawing pay of less than Rs. 1000 per month as on 31st March, 1973 shall be paid to such employees as Personal Pay with effect from 1st April, 1973.

(2) It is agreed that the Personal Pay referred to under Term No. 1 would be adjusted against monetary benefit which would accrue to such employees consequent to their future promotion as and when it arises.

7. A section of the workmen, however, did not approve of the settlement reached and a strike was sponsored by Second Party No. 2, Balco Mazdoor Congress. After the making of the strike, a settlement was arrived at between the Company and all the three Second Parties agreed on 16th April, 1973 to refer the dispute for arbitration to the Presiding Officer of the Industrial Tribunal.

8. The Company in its statement of claim, filed on 16th November, 1973, urged that since the Project Allowance was temporarily sanctioned to the workmen for lack of certain amenities such as housing, school, dispensaries, markets, etc. and as these amenities are now made available to them in the Balco Township at Korba, Phutka Pahar and Amarkantak, there is no justification whatsoever for the continuance of the payment of the Project Allowance to the workmen hereafter. The Company enumerated the development of amenities and facilities in Paragraph 11 of the claim and prayed that so far as the workmen drawing a pay of less than Rs. 1000 per month were concerned, 25 per cent of the Project Allowance may be allowed to be withdrawn from 1st April, 1973. Further 25 per cent may be allowed to be withdrawn from 1st October, 1973 and the remaining 50 per cent may be allowed to be withdrawn from 1st April, 1974. It was also prayed that payments of full Project Allowance which were received by the workmen after 1st April, 1973 may be ordered to be paid back or duly adjusted.

9. The Second Party No. 1, Bharat Aluminium Mazdoor Sangh, Korba, in its statement dated 3rd November, 1973 contended that the Project Allowance was not given as such to workmen but was part of the salary and, therefore, no question of its withdrawal can arise by a notice under Section 9-A of the Industrial Disputes Act. It was also urged that as Bharat Aluminium Company, Korba was only at construction stage, Industrial Disputes Act was not applicable and notice given under that Act was not legal. It was contended that proper facilities were not available to the workmen at Korba, Phutka Pahar and Amarkantak and, therefore, no case existed for the abolition or withdrawal of the Project Allowance.

10. Second Party No. 2 Balco Mazdoor Congress filed its statement on 19th November, 1973. In the statement, the claim of the Company for withdrawal of the Project Allowance was opposed and contentions similar to the contentions of Second Party No. 1 were advanced. However, the contentions of Second Party No. 2 need not be referred to in detail for the reason that it was pointed out on behalf of Second Party No. 1 that the registration of Second Party No. 2 had been cancelled with effect from 30th October, 1973 and notice of cancellation had already been published in M. P. State Gazette, dated 22nd February, 1974 and, therefore, the Second Party No. 2 no longer had a right of representation of the workmen of the Korba Project. The factual position of the cancellation was subsequently accepted by Shri R. V. Kurup, who appeared on behalf of the Second Party No. 2 and after the admission of this fact, it was held by me that the Second Party No. 2 could not be allowed to represent the said workmen and proceedings against it were directed to proceed *ex-parte*.

11. The Second Party No. 3 contended that the facilities and amenities at the Mining Sites are still inadequate and, therefore, the demand for withdrawal of the Project Allowance made by the Company was not justified at all.

12. In view of the pleadings of the parties the following two issues were framed:—

- (1) Whether the facilities pertaining to housing, hospital, schools, shopping, recreation and transport provided at Korba, Amarkantak and Phutka Pahar by the First-Party, are adequate?
- (2) Whether withdrawal of Project Allowance in part or full with effect from 1st April, 1973 is justified and proper? If not, to what relief the workmen are entitled to?

13. It may also be usefully pointed out at this stage that on 12th February, 1974, the following issues pertaining to preliminary objections of the Second-Parties were decided by the Arbitrator against the Second-Parties:—

- (1) That a legal practitioner is not to be allowed without the consent of the Second Party as per Section 36 (4) of the Industrial Disputes Act, 1947; and
- (2) Whether Industrial Disputes Act and Rules thereof are applicable to Bharat Aluminium Co. Ltd. (Aluminium Industry) during construction stage and whether it comes under the purview of the Industrial Tribunal to decide the issue? If not, what action an order can be issued.

It appears that the last sentence is incomplete due to some typing mistake. It should have been 'if not, what action should be taken or what order can be issued.'

14. Against the said order, a Writ-Petition was filed in the Hon'ble the High Court. The First-Party conceded before the High Court that it will not appear before the Tribunal through a Counsel. In view of this stand taken by the Company the Second Party No. 1 did not press its petition. Thus the decision of the Arbitrator dated 12th February, 1974 on the second preliminary point remained undisturbed. On the second preliminary issue, it was held by me that as the dispute between the parties had been referred under Section 10A of the Act on the basis of an agreement between them, they cannot subsequently raise an objection that there was no industrial dispute between them. The view taken by the Patna High Court in *R. I. Mills Vs. Workmen*, A.I.R. 1968 Patna 66, was accepted by me as the correct view. It was also held that it was unnecessary to go into the question as to whether the industry is still at the stage of construction or that the workmen who are concerned in this dispute are engaged for the operation of the Aluminium Industry or in connection with it.

15. The Company examined 8 witnesses and produced 11 documents, which have been marked Exs. P/1 to P/11. The Second-Party No. 1 also examined 8 witnesses and produced 30 documents. Documents exhibited as D/1 to D/17 were proved by them in their evidence and documents exhibited as D/18 to D/50 were marked as exhibits as they were admitted by the First-Party. Second-Party No. 3 examined two witnesses. However, the Second-Party No. 3 subsequently remained absent on the date of final hearing and the case was argued on behalf of the Company and on behalf of the Second-Party No. 1.

16. I shall now take up Issue No. 1 for consideration. The conditions prevailing at Korba and its Mine Sites have been clearly mentioned in Ex. P/2-E by the Chief Engineer of the Company. Ex. P/2-E is dated 12-8-1967. In the opening paragraph itself it has been stated that "Korba Alumina Project site is located at a distance of about 8 Kms. from Korba town, near the village of Parsabhata and Risda which are just a cluster of huts and surrounded by forest. Korba town and its surrounding area is highly infested with mosquitos and is a 'declared bad climate area', having an acute malaria problem. As per the National Malaria Eradication Scheme, this area is still under 'attack' stage out of the three stages of malaria eradication campaign viz., attack, consolidation and maintenance." In paragraph 2, it has been stated that "during construction stage accommodation will have to be provided to about 500—600 members of regular construction staff, besides thousands of unskilled labour. Korba and surrounding villages can hardly provide any housing facility. The housing problem is thus likely to be very acute for the construction personnel till sufficient number of quarters are constructed by Bharat Aluminium Company Ltd. In the early stages, it will only be possible to supply unfiltered water and electricity also very sparingly, causing inconvenience and hardships to the members of the staff and their families. Further, with the starting of construction work of the plant and inevitable increase in population, the rise in the existing prices of commodities, which are already pretty costly, as compared to other places, is bound to arise. Compared to Korba, these problems are expected to be much more acute in the case of construction personnel deputed to work at mines where everything is to start from scratch." In paragraph 3, the grant of

project allowance to the staff working in the Korba Coal fields is suggested at rates given therein. Subsequently it is stated that, "The grant of project allowance in N.C.D.C. Korba started in January 1956 and continued for a period of 11 years when it was stopped from 1-1-1967. The withdrawal of project allowance was progressive i.e. the scale of allowance was reduced as and when amenities such as housing, schools, dispensaries, markets etc. were provided to the members of staff. The same principle could be followed in Bharat Aluminium Company Ltd. as well and a scheme for progressive withdrawal of the allowance will be drawn up later." In paragraph 4, it is stated that, "The extent of amenities presently made available to the N.C.D.C. staff as intimated by the Area General Manager in his letter dated 7th August 1967 are 'houses, electricity, filtered water supply, hospital, education up to primary standard, marketing centre and school bus' but the extent of such facilities is just to meet the requirements of their own staff only. The existing facilities of this nature at Korba town proper are poor and very inadequate. There is a small dispensary at Korba town, which does not admit any indoor patients, housing problem as explained earlier, is acute. There is a school up to Higher Secondary Standard but without Science subject. Water supplied is unfiltered. Prices of commodities in Korba market are generally higher as compared with other places and are likely to go higher still with the start of construction works. Korba is a very small town of about 6000—8000 population. Geographically, it is in the interior poorly connected by railway and cut off for 6 months due to river, as far as roads are concerned. And since it lacks town facilities, it is, in fact neither a town worth the name nor a 'Tahsil' place. Thus, Bharat Aluminium Company Limited will have to make its own arrangements to provide these very essential amenities to its staff." On the aforesaid grounds, in the last portion of this letter, a proposal was made to the Head Office of the Company for granting of project allowance at the rates mentioned therein, which was ultimately sanctioned.

17. The evidence adduced on behalf of the Second-Party No. 1 and Second-Party No. 3 to the extent that it can be relied on also proves that the conditions at Korba and its Mining Sites in respect of the facilities and amenities were almost the same as described in Ex. P/2-E. The matter now required to be considered is as to whether these facilities and amenities have subsequently been provided to the workmen.

18. *Housing*.—So far as housing is concerned, the evidence of Shri M. S. Khan (P.N.8), who is holding the post of Administrative Officer in the Company, proves that the first lot of quarters in the Balco Township (near Korba) were constructed in May, 1970. In that month, 176 quarters were handed over for allotment. By the end of the month of March, 1973, 1202 quarters became ready for allotment. This number included the previously constructed 176 quarters. By the end of March, 1974, the total quarters available for occupation were 1838 and only 9 employees were awaiting for allotment of quarters. He further deposed that now the total number of quarters available is 2028. He also stated that out of those employees who are entitled to Project Allowance and have made application for allotment, there are about 20 persons who are without quarters allotted to them. There is nothing in the cross-examination of Shri M. S. Khan to show that the statistical information given by him is incorrect in any detail.

19. With regard to the Mining Site of Phutka Pahar, the material evidence in respect of housing is that of Shri K. P. Singh (P.W. 5). He testified that he joined as Mines Manager in 1971 at Phutka Pahar Mines. At that time, there were only 15 Asbestos Sheet Huts for providing accommodation to the workmen. He stated that at the time he joined, construction of township was already in progress. He deposed that 28 buildings came up in the first stage by September, 1972 and the whole construction of buildings was completed by April, 1973. The total of such buildings is 127. He has also stated that they are all residential buildings. In Paragraph 2 of his deposition, he testified that none of the persons getting Project Allowance is without accommodation. To all of them, accommodation has been provided by the Company.

20. As regards the Mining Site at Amarkantak, the material evidence is that of Shri G. S. Sharma (P.W. 4). He joined as Mining Engineer at Amarkantak in the month of November, 1970. He has deposed that the construction of buildings in the township at Amarkantak was begun in the year 1970. He also stated that the first set of quarters were constructed by the close of 1970 and in 1971 January, they were made available to the employees and then up to June, 1971, the work of construction of all quarters was finished. In Paragraph 2 of his deposition, he stated that out of 190 persons who were at present getting Project Allowance at Amarkantak, 174 have been allotted quarters.

21. In rebuttal, the material evidence of Second Party No. 1 is that of Shri V. S. Yadav (D.W.1), Secretary of Bharat Aluminium Mazdoor Sangh and Shri B. P. Dewangan (D.W.2). Yadav, in paragraph 6 of his deposition asserted that in Balco Township, the position of housing was that 50 per cent of workmen getting the Project Allowance had not been provided accommodation by the Company. He stated that there were 2400 persons at Balco who get Project Allowance and out of them, only 1400 were

given housing accommodation. In paragraph 8 of his deposition, he asserted that arrangements for internal electrification, water supply and sewer line were still not complete in the houses and they were still being made. However, in his cross-examination, he admitted that in his house, he had electricity, water supply from pipe line and sewer line also and he stated that in his statement when he stated that electricity, water line and sewer line were not there, he meant to say that there were no lights on all the streets, no drainage line on the roads and that the sewer line had come into existence only recently. He plainly admitted that all the quarters given to the employees were electrified and that there was water supply given to the quarters though he complained that the supply was only for 2½ hours in a day. His estimate that only 50 per cent of the workmen entitled to Project Allowance have been given quarters is based on a mere surmise. He admitted in cross-examination that he had no record to say that the total number of quarters made to employees was of 1400 only. He stated that he stated the number approximately on information taken from employees. The statement of Shri M. S. Khan (P.W.8), which is borne out from record, appears definitely to be a more accurate statement worthy of acceptance.

22. Shri B. P. Dewangan (D.W.2), clearly admitted that in Phutka Pahar, houses are available to all those who are entitled to Project Allowance. He also admitted that these houses are provided by the Company. The shortcomings pointed out by him are that no false ceilings were provided in the houses and that the water supply becomes faulty some times as they do not get water for two or three days and sometimes the electric lights also fail. He also made a grievance of the fact that no drainage had been provided near the houses at Phutka Pahar and fencing has not been provided in the quarters.

23. About the housing accommodation at Amarkantak, R. P. Dubey (D.W.7) stated that he got the quarter there after waiting for about 20 days. He also stated that when he took residence in the quarter, it was not electrified nor was the quarter having the facility of water supply but after a month or so, he got the electricity and water supply in that quarter. He admitted that water supply is available for 5 hours a day, although some other witnesses of the Second-Party No. 1 had tried to say that the water supply was available only for 2 hours and not more. He made a grievance that there was no arrangement provided in the quarters for storing of water and the quarter had no fan connection nor had it false-ceilings. He also made a grievance of the fact that there was no fencing provided for the quarter.

24. It is clear from the aforesaid evidence adduced by Second Party No. 1 that their real grievance is not about the shortage of accommodation but the grievance was made about the following points:—

- (1) That there was no proper arrangement of drainage.
- (2) That there are not false-ceilings in the quarters.
- (3) That quarters were not fitted with electric fans.
- (4) That there were no lights on some of the streets.
- (5) That no fencing had been provided for the quarters.
- (6) That water supply is available for a very short time.

Some of them also tried to say that filtered water was not supplied in the quarters at the aforesaid three places.

25. In my opinion, on the aforesaid grounds raised by the witnesses of Second-Party No. 1 the housing accommodation cannot be held to be insufficient or inadequate. In the first place, the accommodation provided is required to be judged in reasonable manner and not from the standard of those members of society who can afford a costly or luxurious living. I have not been able to understand as to what is the need of false-ceiling in the quarters. It has clearly been proved that both Phutka Pahar and Amarkantak are situated at a height of about 3000 feet or more above the sea-level. B. P. Dewangan (D.W.2) admitted that the height of Phutka Pahar is 3600 feet and the climate is much that it is usually cold. Shri K. P. Singh (P.W. 5) has stated in his statement that the altitude of Phutka Pahar is about 1000 metres. It is too much to expect that false-ceilings and fans have to be provided in the quarters of workmen at these places or in Korba township. Similarly, even if it were accepted that there were no lights on some of the streets either in Balco township or at the other two places, it cannot be reasonably concluded that the housing accommodation provided to the workmen was inadequate on that ground. With regard to the supply of water, it is rather strange that different witnesses have tried to mention this fact in a manner which is itself conflicting with the testimony of the other witnesses. R. P. Dubey (D.W. 7) stated that the water supply for Amarkantak was 5 hours. Yadav (D.W.1) stated that the water supply at Balco Township was for 2½ hours. Other witnesses of Second-Party No. 1 have made varying statements on this point.

26. In the evidence of Shri M. S. Khan (P.W.8), it has been stated that water plant came into operation at Korba in September, 1972 and since then they have been supplying the Balco Township at Korba with treated and filtered water. When I inspected the Balco Township on 6-10-1974, a point was made by the Secretary of Second-Party No. 1 that treated water was not supplied in temporary market in Sector V. The contention was opposed by the Company and a sample of water was seen by me and it was found that the water was quite clear. It appeared to be filtered water. The evidence to the effect that filtered water is supplied to the Balco Township is given by Shri M. S. Khan (P.W.8) and nothing has been brought about in his cross-examination that his statement on this point was false or incorrect. Similarly, when I inspected the Water Treatment and Filtration Plant at Phutka Pahar on 6-10-1974, it was contended on behalf of the Second-Party No. 1 that the Plant was not working at all. The Engineer concerned then demonstrated that the Plant was in full working order. Then it was emphasised on behalf of the Second-Party No. 1 that the Plant had put in order on 1-7-1974 and that it worked only for some time satisfactorily but had gone out of order and again put in order on 1-10-1974. I stated clearly in the Inspection—note itself that these were matters of evidence. No reliable evidence has been adduced on behalf of Second-Party No. 1 that the water Filtration Plant was not in operation for the period alleged by it. Further, even if it were supposed for the sake of argument that for some time the Filtration Plant had gone out of order, it cannot result in the conclusion that the Company had not taken adequate steps for providing the workmen with clean water. Occasional disorders in the functioning of machinery are not uncommon.

27. It would also be too much to expect that the Management arranges for electric light in all the small lanes. Merely because some lanes are presumed or found to be not electrified, it would not be a reasonable conclusion that the arrangement in respect of housing accommodation is insufficient.

28. D. P. Pandey (D.W.5) of Second-Party No. 1 asserted that the number of employees at Korba was between 3000 and 4000. He also asserted that the allotment had already been made of about 3000 quarters. He stated that out of these 3000 quarters, no less than 700 quarters were allotted to the contractors and their labour. D. P. Pandey's statement cannot be believed for the simple reason that it is far in excess of the figures asserted by the First-Party itself. If D. P. Pandey is to be believed it will be required to be held that 2300 quarters have already been allotted to the workmen in Balco Township. Shri M. S. Khan (P.W.8) has stated the number of quarters in his deposition which has been discussed above. It is obvious that the witness (D. P. Pandey) is either asserting facts about which he has no personal knowledge or is completely misinformed.

29. The other point emphasised with regard to the housing accommodation is that some workmen have been required to wait for about 2 months for getting the accommodation. There is no evidence adduced to show as to how many workmen out of the total number of workmen were required to wait in this manner. It appears to be a natural process that when quarters are being constructed and workmen also are being recruited, there would be some delay in the allotment. However, the significant point is that there is nothing in the evidence of the Second Party No. 1 so nullify the factual and statistical position which is established by the evidence of the three witnesses of the First-Party discussed above. The provision with regard to the housing accommodation cannot be held to be inadequate on the ground of some delay in allotment.

30. The evidence of other witnesses of Second-Party No. 1 need not be discussed in detail as it does not take the case of Second Party No. 1 beyond what has already been discussed. The evidence of two witnesses of Second-Party No. 3 is not material on the question of adequacy of housing accommodation.

31. With regard to the provision of housing accommodation in townships of public sector undertakings, the material document on record is Ex.P/10. It is the Memorandum issued by the Additional Secretary to Government of India and Director General, Bureau of Public Enterprises. It is stated therein that "In most difficult and remote locations where there is neither a town nearby nor enough villages to provide local labour, the percentage satisfaction should not exceed 70 per cent." The percentage satisfaction in the present case is much higher than 70 per cent, at all the three places and, therefore, the housing accommodation provided by the Company cannot be held to be insufficient or it being inadequate for the grant of Project Allowance.

32. I may now take up for consideration the question of medical facilities existing in Balco town, Korba, Phutka Pahar and Amarkantak.

33. The most material evidence on behalf of the First-Party is that of Dr. J. P. Swarnakar (P.W. 3), Shri G. S. Sharma (P.W. 4) and Shri K. P. Singh (P.W. 5). Dr. Swarnakar's evidence establishes that when he joined Balco in the year 1970, the only arrangement was that a part time doctor used to attend the dispensary which was then existing. He testified that after his joining another dispensary was opened in Balco Township and in that dispensary out-door patients were treated. In the year 1970, the total strength of medical personnel in that dispensary was only 8, but in the year 1971, it was raised to 15. He stated that in the year 1971, a shed was constructed in which out-door patients were treated and a lady doctor Mrs. Vohra joined in that year. He stated that in the year 1972, three more doctors, Dr. Mishra, Dr. R. S. Swarnakar and Dr. Dutta joined and in that year one more shed was built for in-door treatment, in which the facility for delivery cases was also provided. He stated that for in-door patients, in the year 1972, provision of 12 beds was made and there were three beds for maternity cases, but according to the exigencies of the situation adjustment of patients used to be made. He also testified that at the end of the year 1972, X-Ray arrangement was made and a Pathological Laboratory was set up. In the year 1973, Balco recruited Dr. A. N. Chatterjee as the Chief Medical Officer. Further, a Gynaecologist, Dr. Mrs. Venu Gopal also joined in that year. The number of members of nursing staff was also increased and an Ambulance car was provided for bringing patients to the Hospital. Further in the same year, another shed was built for housing the Operation room and the Recovery Room. Then according to him in the year 1974, Dr. Theodore, Anaesthetist joined the hospital and in the month of October, 1974, Dr. Bhagwat and Dr. Rao joined. He also deposed that in the year 1974, a regular dental surgeon Dr. Talwalkar was appointed in the hospital. Before that, the arrangement with regard to dental cases was that Dr. Gulati attended the dental cases on part time basis. He also stated that in 1974, an E.C.G. Machine was purchased for the hospital and two Ambulance cars were added. This evidence clearly establishes that the hospital facilities developed considerably at Korba and a full assortment of 8 doctors was working in the Balco Hospital in 1974. It is also in evidence that the treatment is provided free of cost to all the employees and their families and dependents. It is also in evidence that out of the 8 doctors, three are medical specialists in their subjects. The evidence of Shri G. S. Sharma and Shri K. P. Singh establishes that at Amarkantak and Phatka Pahar dispensaries have been provided with medical staff including doctors, mid-wife, nurses and attendants. It has also been established that for meeting emergencies, life saving drugs are stored and provided. The dispensaries have also the benefit of the Ambulance Cars.

34. At all the places, this arrangement is made that for cases deserving extra attention arrangements are made to shift the patients from Korba to Champa and Bilaspur. At Bilaspur District Hospital is located. From Phatka Pahar arrangements are made to shift the patients to Korba and Champa and from Amarkantak arrangements are made to shift the patients to Shahdol and Bilaspur. It is worthy of note that the number of workmen at Phatka Pahar and Amarkantak is less than 400. The factual position established by the testimony of the aforesaid three witnesses appears to be correct in the light of the facts which were seen by me at the time of the inspection, which have been duly recorded in the Inspection Note.

35. It was ascertained from the Chief Medical Officer, Balco Hospital that the average number of patients taking advantage of the hospital per day was about 300. He filed Ex. P/8, which shows the number of new patients and old patients for the periods from 1st August, 1974 to 7th August, 1974 and from 2nd September, 1974 to 7th September, 1974. These periods were chosen at random at the time of the inspection and the parties agreed that the information given by the Chief Medical Officer may be read as evidence without further proof. The average number of new patients on the basis of this information in 85 and the average number of old patients is 207. Similarly at Phatka Pahar, the average attendance of patients for a week chosen at random in the month of August, 1974 works out at 40 per day and the average attendance commencing from 23-9-1974 to 29-9-1974 was 37 per day. Similarly at Amarkantak dispensary, the average of patients of new cases comes to 35 per day and 64 old cases per day. Considering the total number of doctors posted in the Balco Hospital and in the dispensaries at Mining Sites, it is easy to see that the number of doctors is such that they would be able to properly attend to the needs of the patients visiting the said hospital and dispensaries. There is no evidence adduced on behalf of the Second-Party No. 1 or 3, showing that any patient suffered due to the want of attention of doctors at these places.

36. The evidence adduced is rebuttal consists of Shri V. S. Yadav (D.W.1), Shri B. P. Dawangan (D.W.2), Shri Hargovind Tamrakar (D.W.3) Shri R. P. Dhusia (D.W.4), Shri D. P. Pandey (D.W. 5), Shri I. K. Jain (D.W. 6) and Shri R. P. Dubey (D.W. 7). I would briefly refer to the relevant portion of their statements. Shri V. S. Yadav (D.W.1) stated that the construction of the main building of the hospital was still in progress. This fact is not denied. However, the present Balco Hospital is run in three sheds recently

constructed and it is nobody's case that any difficulty is experienced in these sheds in the working of the hospital. Shri Yadav then made a grievance of this fact in his statement that though his daughter was ill for 4 months and had been going to the hospital, she was not cured. No question is raised in the statement of claim by Second Party No. 1 about the competency of the doctors in the hospital and the dispensaries of the First-Party. Shri Yadav admitted in his cross-examination that his daughter had been examined by three doctors of the Balco Hospital. If anything, this fact indicates that doctors paid proper attention to treat the patient. Only because the patient is not completely cured after taking any particular course of treatment, it cannot be held that the only conclusion possible is that the treatment was improper. There are obstinate cases of sickness where relief or cure may not always be possible. The grievance made by the other witnesses of the Second-Party No. 1 is that patients have to wait for some time to take their turn with the doctor and that there is no full time attendance in the hospital at Korba. In this connection, it is significant to point out that Dr. Swarnakar (P.W.3) was not at all cross-examined on these points and the statements of the witnesses examined by the First-Party are that there are adequate arrangements in the hospital to receive and treat patients at any time they visit the hospital. No definite case has been cited on behalf of Second Party No. 1 establishing that any particular patient was taken to the hospital on any particular day and could not be given treatment because no doctor was on duty there. In fact, some of the witnesses of the Second-Party No. 1 have admitted that if no doctor is present in the hospital at the time of the arrival of the patient, arrangement is made to call the doctor. With regard to Phatka Pahar dispensary, Shri Dewangan (D.W.2) stated that lady doctor from Balco used to come there once in a fortnight. Now she is coming there once in a month. The case of the First-Party was that as the number of cases demanding the attendance of the lady doctor at Phatka Pahar was small, with the consent of the workmen the fortnight arrangement was changed into the arrangement of one visit per month. Shri Dewangan has plainly admitted this fact by stating that the management did this because the number of patients was small at Phatka Pahar and therefore, the lady doctor's visit was made once in a month. He has admitted that he was asked about it. The grievance made by Shri Hargovind Tamrakar (D.W.3) in his statement is that the hospital in Balco Town and the Dispensary at Phatka Pahar were not satisfactory. He stated that even minor cases were not treated properly in Balco Hospital. He further stated that there was no specialist there. His statement does not appear to be truthful at all. His statement that there is no specialist in the Balco Hospital is clearly false. Dr. Swarnakar's testimony establishes that at present there were three specialists on the general side in the Balco Hospital excluding the Dental Surgeon, who is only a Graduate and not a Post-graduate. His statement that in the Balco Hospital there is temporary arrangement only for keeping patients and patients are kept only for one day and not more also does not appear to be correct. No questions were asked to Dr. J. P. Swarnakar about this difficulty. In Paragraph 12 of his statement, Hargovind has asserted that there were only 6 doctors working in the Balco Hospital, but Dr. J. P. Swarnakar has given detailed information which establishes that in that Hospital there were 8 doctors. It clearly appears that he has scant regard for truth. Shri R. P. Dhusia (D.W. 4) stated that though he generally did not go to the hospital, the hospital arrangement was not satisfactory inasmuch as his wife was required to wait for an hour for her examination by the doctor. He also deposed that there were ques for dispensing of medicines and also for injections. He admitted that when his wife had arrived in the hospital the doctor was already busy in examining some other patient. Merely because at a particular time any particular patient was required to wait for some time, cannot by itself lead to the conclusion that the working arrangement of the hospital is not satisfactory. The witness has not even stated that his wife's condition was such that she needed immediate attention. As the doctors took up the cases according to the time of the arrival of the patients, it cannot be said that they were adopting a method which needed a change. This witness has gone the length of suggesting that as there are cases when patients are referred to other places the hospital working is unsatisfactory. It is true that patients are referred to other places but this fact alone cannot lead to the conclusion that the arrangements at Balco are not satisfactory. The act of referring those cases to other doctors which require extra attention, does not prove the incompetency of the doctors. It is rather an indication of the extra care that the doctors take for getting difficult cases properly treated. The witness also made a charge of there being no specialist in the Balco Hospital. However, it is clear that he does not understand the meaning of the word specialist properly. To the question as to whether M.D., M.S., M.R.C.P. and F.R.C.S. are specialists, his reply was that he is not well-versed and, therefore, cannot state. The reply sufficiently exposes him. Shri D. P. Pandey (D.W.5) stated that on 1st April, 1973 there were only 4 doctors in the hospital. This statement is wholly incorrect. He made a grievance that in emergency cases, no proper treatment in the said hospital is, given and patients were being referred to Chapa. He stated that though re-imbursement is made of the expenses incurred on the patient, it was not given for attendants whether they were parents or husband. However, in his cross-examination, he could not stick to the statement that there were only 4 doctors and he had to say that

he could not refute the presence of the Chief Medical Officer in hospital on 1st April, 1973. He also admitted that he did not know the provision about the reimbursement of expenses of the attendants. It is also significant to know that he or his family never went to the hospital for any emergency and he had been there once only in his neighbour's case. It is significant that the said neighbour has not entered the witness-box to depose about the difficulties he had in the treatment at the hospital. The next witness is Shri J. K. Jain (D.W. 6). His evidence was that he suffers from tooth trouble but he did not get proper relief in the hospital. He stated that his mother was a heart patient and she did not get specialised treatment there. As he complained about his mother being a heart patient, in cross-examination he was asked as to what E.C.G. Machine is and he demonstrated his ignorance by saying that he did not know what E.C.G. Machine was. His statement that there is no specialist in the hospital is effectively contradicted by Dr. J. P. Swarnakar. His evidence, in my opinion, is totally unreliable and is not worth the paper on which it was written. The last witness of Second Party No. 1 for consideration on this point is Shri R. P. Dubey (D.W. 7). His statement is that there is no in-door patient facility in the dispensary at Amarkantak. He further stated that no lady doctor is working in the dispensary but he clearly stated that a lady doctor has been selected and she was to join the dispensary shortly. He further stated that in cases of emergency, if the medicines are available they are given and if the medicines are not in stock, the patient is sent to the District Hospital at Shahdol or Bilaspur. He also stated that for emergency cases, the dispensary does not remain open in the night. In the night, if cases are brought, the doctor is called. His statement on the whole, in my opinion, is favourable to the First-Party and goes to show that the dispensary is run in the manner alleged by the First-Party.

37. Another grievance made was that there were no arrangements in the Balco Hospital for transfusion of blood. It has, however, been established in the evidence of the First-Party that whenever transfusion of blood is necessary blood is obtained from Bilaspur or Champa. At a small place like Balco Town having the population of about 10000 persons, it cannot reasonably be expected that the Company would maintain a blood bank. It is also worthy of note that no evidence has been adduced to show that the working in the Company involves any extraordinary hazard. In my opinion, the evidence adduced shows that medical facilities at the Balco Town and the Two Mining Sites are quite satisfactory.

38. **Education.**—I may now take up Education facilities for consideration. It has been specifically shown in Ex. P/2-E that the facilities existing in the year 1967 at Korba were that there was a school upto Higher Secondary standard but without Science subjects. The evidence of Shri S. K. Thakur (P.W. 2), who is the Principal of the Government Higher Secondary School at Balco Township, establishes that when he joined in the year 1973, Xth and XIth classes were started in the school. He also stated that a grant of Rs. 25,000 was made by the Company. From this amount, furniture worth Rs. 10,000 was supplied to the school by Balco and Rs. 15,000 were left at his disposal for utilising for the purposes of the school. He also stated that the building in which the school is run belongs to Balco, which does not charge rent, electricity charges and water charges for its use. He also stated that the teachers are allotted quarters in the Balco township on the same condition on which quarters are given by Balco to their workers. The school is also equipped with a Library having about 1,000 books. His evidence also establishes that Science subjects are also taught in the school. Shri M. S. Khan (P.W. 8) deposed that in the Balco township there were 7 schools. One of the schools was an English medium Nursery School called Kamalnili. There is another English medium Primary School which takes students upto IIIrd Standard. There was one Hindi Medium Primary School also which admitted students upto IIrd Standard. Then there is a Government Primary School as also a Government Middle School. Apart from these Schools, there was the Government Higher Secondary School, of which Shri Thakur was the Principal. He further deposed that some boys read outside the Balco Township in Beacon English Medium Higher Secondary School, which is at a distance of about 12 Km. from Balco town. From those students who go to Beacon School for reading conveyance at subsidised rates of Rs. 5 per month is charged. He has also testified that Korba Town has a Degree College, which is called Kamla Nehru Degree College. He also deposed that recently M. P. S. R. T. C. bus commenced running a bus by which the boys got lift upto Korba town. This evidence establishes that for students desirous to read in Degree College facility exists in Balco township. Shri G. S. Sharma (P.W. 4) has deposed about the educational facilities at Amarkantak. He has stated that in Amarkantak township there is a Middle School, which was started by the Tribal Welfare Society in the month of August, 1972. The Primary School was started there in September, 1971. VIth Class was added to that School in that year. He also deposed that for those students who want to read in higher classes at Amarkantak High School, Company gives the benefit of conveyance to them after charging conveyance charges of Rs. 5 per month. He also deposed that for running the school the Balco Management has

provided,—(1) School building, (2) tables and chairs, (3) teaching aids, and (4) water supply free of charge. The Company also provides accommodation to school teachers after charging from them the same rent which it charges from its employees. The evidence of Shri K. P. Singh (P.W. 5) establishes that there is a school in which children are educated up to Vth Class in Phutka Pahar township. The Company has constructed the School building and has provided furniture, electricity and teaching aids for running of the school. Ajit Singh Verma (D.W. 1) of Second-Party No. 3 admitted that there was not a single student in the Vth class. Shri V. S. Yadav (D.W. 1) made this grievance of the educational facilities that the building in which the High School is held was constructed as a building for Primary School and that in the High School in Balco township, there was no Library nor was there any Park or play ground for children. It is not disputed that classes are held in that school. It has not been urged that there was any difficulty in holding the classes in that building. At the time of inspection, I was shown 12 Class-rooms. This statement about the number of Class-rooms was not challenged by any of the Second-Parties. The mere fact that the building was constructed for housing the Primary School, does not yield the conclusion that the teaching arrangements in the High School are inadequate. Shri S. K. Thakur in his deposition stated that in his School, there was a small Library of about 1000 books and this statement was not challenged at all in the cross-examination. He also stated that though there is no separate play ground provided, but there were two other grounds belonging to the Balco nearby which were utilised by School students for their play. Thus, the contentions raised by Shri V. S. Yadav are without substance. Shri B. P. Dewangan stated that the arrangements at Phutka Pahar were unsatisfactory because there was only one teacher provided there in the school. He pointed out that the inconvenience there was that the number of students was large but there was only one teacher. However, Shri K. P. Singh (P.W. 5) deposed in Paragraph 5 of his deposition that one more teacher had been posted by the authorities there, who was likely to join there soon. It is also worthy of note that Shri Dewangan has merely stated the number of students as large. He has not mentioned the number of students. In his cross-examination, he stated that the number of students in Vth Class was about 15, but then he plainly stated that he could not deny the suggestion that there is not a single student reading at Phutka Pahar. I have already pointed out that Ajit Singh Verma admitted that there was not a single student in Vth Class. This clearly shows that authorities in charge of education were alive to their responsibility of providing suitable facilities to the students at Phutka Pahar and higher classes were not started because there were no students for Vth Class. Another important witness of Second-Party No. 1 on the question of educational facilities at Amarkantak is R. P. Dubey. His statement, in my opinion, supports the case of the First-Party. He has deposed that in Amarkantak township, education is imparted up to VIIIth Class and there are 4 teachers. He also stated that those children who want to read in IXth Class have to go to Amarkantak and they are charged Rs. 5 per month as conveyance charges by the Company.

39. It is significant that not a single case has been established by the Second-Parties showing that any particular students was refused admission in any of the Schools. Education is a Government subject and, therefore, the Company can only reasonably be expected to assist the cause of education by providing buildings, furniture, electricity, water, etc. These facilities are provided by the Company at all the aforesaid places free of charge. It also helps in providing the facility of conveyance by charging concessional rates from the students, who are required to go from Balco Township to Korba or from Amarkantak township to Amarkantak for continuing their studies in higher classes.

40. **Shopping.**—In respect of the facility of shopping, First-Party's important witnesses for Balco township, Korba are Shri P. N. Shukla P.W. 6) and Shri M. S. Khan (P.W. 8). Shri Shukla in his deposition stated that he was the Vice-President of the Co-operative Society at Korba. He further deposed that the Management of Balco helped the running of the Co-operative Society, (1) by making an out-right grant of Rs. 1,000; (2) by granting a subsidy of Rs. 200 per month for one year; (3) by granting an interest free loan of Rs. 10,000 and then by charging 6 per cent interest on loan. He also stated that the Company charges nominal rent of Re. 1 per month for the shop in which the goods of the Co-operative Society are sold. He further stated that in the year 1973 when there was shortage of foodgrains, the Management gave a loan of Rs. 30,000 without interest. The Management has also provided one of its employees to serve as the Secretary of the Society. He also stated that the Co-operative Society started with the membership of 20 but now it has the membership of 526. He further deposed that the Co-operative Society had arranged from a dairy for the supply of milk at the rate of Rs. 2 per litre and that dairy was supplying 200 litres of milk every day. He also stated that to the members of the Society, a rebate of 2 per cent is given on the sale of uncontrolled articles. The monthly sales of the Society come to about Rs. 45,000.

He also stated that due to the proper functioning of the Cooperative Society, the abnormal rise in the commodities was controlled. In the cross-examination, an attempt was made to show that the membership of the Society was not open to all workmen but from the answers given by him, it appears that the suggestion made has been completely refuted.

41. Shri M. S. Khan (P.W. 8) stated that when he had joined in the year 1971, weekly market used to be held at Parsabhata, but now that market was held twice a week since July, 1972 in Balco Township. He further stated that in Shops, Vegetarian and Non-Vegetarian meals, Kirana goods, Grocery and general merchandise and meat etc. were sold. He also stated that when he had joined both the permanent shopping centres were under construction. In Section 5, the permanent shopping centre came in existence in December, 1971 and in Sector 1 the Shopping Centre commenced were in July, 1973.

42. Shri G. S. Sharma (P.W. 4) deposed that when he joined as Mines Manager at Amarkantak Mines in the year 1970, employees of the Company were required to go to Amarkantak Village for shopping. In 1971, a few shops had developed outside the Amarkantak Township of the Company. In August, 1972, a Cooperative Store was started in the Shopping Centre of the Company, for which Balco gave the shop premises on a nominal rent of Re. 1 per month. He has further stated that in the month of December, 1972, the Management, allotted 4 shops in the Shopping Centre, three of which were running. In December, 1971, the Company also allotted 15 plots or thereabout for the construction of shops. 9 allottees had availed the plots and their shops were running. He also stated that the Company helped the Cooperative Society by giving a total loan of Rs. 13,000. It also helped by making its truck available when it was needed for bringing supplies. He also stated that about 6 months before the date of his deposition, a fair-price shop had been started under the said Cooperative Society. He said that the total turn over of the Cooperative shop last year that is to say in the year 1973, was about Rs. 1 lac. He also estimated that in 1974, the total turn over was expected to be about Rs. 3 lacs. He also stated that a Canteen was run by the Balco, in which meals, tea and snacks were provided. Tea was supplied at 10 Paise per cup and food was supplied at 90 Paise per Thali. These rates are obviously much lower than the market rates. He has not been shaken at all in his cross-examination.

43. Shri K. P. Singh (P.W. 5) deposed that at Phutka Pahar, there was a cooperative store in the Township of the Company, which also worked as a fair-price shop. It was further stated that 4 shops were allotted to private persons and out of them two shops were functioning. He also stated that there were 8 other shopkeepers, who had their shops in their hutments. The Management's assistance to the Cooperative Society was that it had provided a building and given a capital loan of Rs. 3,000. The Company was bearing 50 per cent of the expenses which were incurred in bringing material to the Cooperative Shop. He has also stated that there was a Canteen provided by the Company, in which tea was served at 10 Paise per cup. He stated that the Management had constructed a building for the Canteen and it also provided cooking utensils, tables and chairs and had provided 5 personnel to serve the Canteen. He also stated that the Company supplied electricity, water and fuel free of cost for the Canteen. In cross-examination, he stated that 5 officers and 325 workers of the Company were there in all and all of them purchase their requirements from the fair-price shops and Cooperative Stores. The purchase was open to all of them.

44. All the witnesses examined on behalf of the Second Party No. 1 complained of two things. Their first grievance was that all the articles and commodities of daily needs were not available at the various shops provided in the Balco Township, Korba and at the Mining Sites. Their second grievance was that uncontrolled articles were sold in the Cooperative Shops at prices which were even higher than the prices ruling in the market. In cross-examination, it has been brought out that at Balco Township and Mining Sites were at a great distance from important cities and the transport costs were heavy, therefore, things were sold at higher prices at these places. It has also been stated in cross-examination that the prices were high as the Company could not effectively control them.

45. In my opinion, on the evidence on record, the facilities of shopping available at these places cannot be held to be unsatisfactory only on the ground that things are sold at these places at high prices. Even in Ex. P/2-E, it was noticed that the current prices at these places were higher as they were situated in the interior at great distance where the facility of railway communications and other transport was not available. It can hardly be disputed that the effect of Cooperative Societies would be to thwart the other shop-keepers charging heavy prices as the Cooperative Societies brought competition into existence at these places. The explanation which has been given by some of the witnesses of the Second Party No. 1 that though the prices of things were higher in the Cooperative Societies, they were still purchasing from there repeatedly as they thought that it will be better to the benefit of the Cooperative Society, is hardly acceptable. No one suffering from financial stringency would try to purchase things at higher prices from a cooperative Shop when he gets the same articles on cheaper rate from other shops. The evidence on record established that the Company has provided land and building for holding the weekly markets and for running the Cooperative Shops and other shops. It has also provided personnel and other facilities for running the cooperative stores efficiently and with economy. It has also made arrangements at Balco Township at Korba for the supply of milk at fair price. In the Balco Township permanent markets in Sector 5 and Sector 1 had developed in 1973. It is also worthy of notice that from Amarkantak Township, the distance of Amarkantak village is about 6 Km. It stands to reason that that being a place of pilgrimage and a place where High School is located, articles of daily needs would be available there and the distance can be covered in about 20 minutes, if the purchaser uses a cycle. The statement made by Naldeosingh (D.W. 2) of Second Party No. 3 to the effect that at Amarkantak there are only one or two shops is not believable at all. The Cooperative Societies and fair price shops existing at Phutka Pahar and Amarkantak have been properly supported financially and otherwise by the Company. The Canteens available at all the three places provided extra facility as the workmen obtained tea, snacks and food at much cheaper rates.

46. **Transport.**—On the point of transport facilities, the important witnesses of the First-Party are Shri M. S. Khan (P.W. 8), Shri G. S. Sharma (P.W. 4) and K. P. Singh (P.W.5). The testimony of Shri M. S. Khan establishes that for going to and coming from Korba to Balco Township, there is a city bus of M.P.S.R.T.C. which runs every hour from 5 a.m. to 6 p.m. daily. Apart from the said bus, the other facilities available there are that there are about 8 or 10 Tempos plying between Korba and Balco Town and there are two or three Auto-Rikshaws also. In cross-examination Shri M. S. Khan's statement that M.P.S.R.T.C. bus was running every hour has not been challenged at all.

47. With regard to the transport facilities in the Balco Township at Amarkantak, Shri G. S. Sharma has testified that the Company provides conveyance for reaching Amarkantak village to its employees on payment of charges and from Amarkantak village bus facility exists for going to Bilaspur, Shahdol and Pondra. He further stated that in the dry season buses going from Jabalpur to Amarkantak were also available as these buses pass through Balco Township.

48. Shri K. P. Singh stated that Phutka Pahar was at a distance of 32 Km. from Balco Township, Korba. For bringing employees from Balco Township, Korba to Phutka Pahar and for taking them from Phutka Pahar to Balco Township, the Company was utilising its Dumpers which go to Balco Township twice a day. He admitted in his cross-examination that when persons get into the Dumpers they may be making an overloading situation as there is no definite weight prescribed for being carried in the Dumpers.

49. All the witnesses produced by Second-Party No. 1 complained that the transport facilities were unsatisfactory at all the places. They tried to say that the M.P.S.R.T.C. bus service was not running every hour from Balco Township to Korba. They stressed that from Phutka Pahar, the Company gave a free lift to its workers once every week on Sundays in their bus for making their purchases in the market. This was not sufficient. Another grievance made was that the transport arrangements available at these places were very expensive and at Phutka Pahar there was no alternative arrangement available.

50. Having considered the evidence adduced by both the parties on this point, I am of the opinion that the transport arrangement at present existing at Phutka Pahar cannot be held to be satisfactory. The distance of Phutka Pahar from Balco Township which is the nearest place available for shopping is 32 Km. There is only one bus provided every week to the workmen for making their purchases in Balco Township or Korba. It is true that for this bus service, the Company does not charge any hire from the workmen but considering the needs of 326 workers and their families, the provision for only one trip in a week appears to be inadequate. There are no other arrangements which could be availed of by the employees of the Company there for going to Korba or Balco Township. The arrangement of taking employees in Dumpers may serve in an emergency but cannot be considered to be a dependable provision for transport of the workmen daily. It was urged on behalf of the First-Party that the M.P.S.R.T.C. was contemplating to start a bus service from Phutka Pahar to Korba and its trial was to take place on 12th October, 1974. However, there is nothing on record to confirm that the said bus service has been started.

51. With regard to the other two places, namely, Balco Township and Amarkantak, I am of the opinion that the arrangements existing there should be held to be satisfactory. It is true that the workmen are required to pay some heavy fare for going to Korba from Balco Township and for going to Amarkantak Village from Amarkantak Township but considering the fuel stringency these high rates cannot be prevented when the prices of petrol and diesel have gone higher by 4 or 5 times. It is but natural that for transport more money is required to be spent. I, therefore, hold that the transport provision at these two places is adequate.

52. **Recreation.**—The next item for consideration is the facility of recreation. This item cannot be held to be as important as the other items already discussed above. However, the Company arranges some free cinema shows at all the three places for its employees. This is established by the evidence of Shri M. S. Khan (P.W.8), Shri G. S. Sharma (P.W.4) and Shri K. P. Singh (P.W.5) as also by the evidence of Shri R. P. Dubey (D.W. 7) of the Second-Party No. 1. The Company has given facilities in the Community

Hall constructed by it for in-door games. The table-tennis, chess and carom. This Community Hall provides for holding social functions in it. In Balco Township, facilities are also provided for out-door games like foot ball, cricket, volley-ball and hockey. It is not necessary to develop this point further.

53. For making the record complete, I have discussed the entire evidence which has been produced by the parties. I would, however, like to state that in the written argument submitted on behalf of the Second-Party No. 1, no attempt at all was made to reply on the point on which cross-examination was directed by it to the witnesses of the First-Party or on the points which were desired to be brought out in the examination-in-chief of their own witnesses.

54. In my opinion, all the facilities discussed above have to be judged not from an ideal stand point but from the practicable and feasible point of view. It has to be appreciated that the same facilities cannot be expected at the Mining Sites as may be expected by the workmen at Balco Township, Korba. Shri V. S. Yadav, Secretary of the Second-Party No. 1 rightly admitted in his statement that he did not expect the same facilities to be provided by the Company at Phutka Pahar and Amarkantak as they are provided in Balco Township, Korba.

55. Considering the entire evidence in this light, I would answer Issue No. 1 in this way that the facilities pertaining to housing, hospital, schools, shopping, recreation and transport provided at Balco Township, Korba and Amarkantak are adequate. These facilities at Phutka Pahar also are adequate except in respect of transport.

56. I may now take up the second issue for consideration. The question for consideration under this issue is as to whether the withdrawal of Project Allowance in part or full is justified and proper from 1-4-1973 and if not, to what relief the workmen are entitled to. In the Written Statement as also in the Written Arguments submitted on behalf of Second-Party No. 1 it has been urged that the notice of change was not served legally and properly on the Second-Party No. 1. It is contended that the notice of change forms the very foundation for invoking the jurisdiction of the Tribunal and as the said notice was illegal, the reference made to the Arbitrator cannot be entertained. In my opinion, this contention cannot be accepted. Even if it were assumed that the notice of change dated 10-3-1973 was not served in the manner required by law, it is an admitted fact that the present reference was made only on the basis of an agreement between the First-Party and all the Second Parties. The Company and all the Second-Parties agreed on 16-4-1973 to refer the dispute for arbitration to the Presiding Officer of the Industrial Tribunal. The dispute was referred under Section 10A of the Act on the basis of an agreement between the parties. This being the position, none of the parties can subsequently raise an objection that there was no industrial dispute between them. This was clearly held while deciding the second preliminary issue by my order dated 12th February, 1974. I have referred to the decision of that issue in detail in paragraph 13 of this award. Even if the notice is held to be defective, it is clear that as subsequently there was an agreement between all the parties, none can complain about the notice and they are bound by their agreement in referring the dispute for adjudication to the Arbitrator. The contention of the Second-Party No. 1 about the illegality of the notice is, therefore, rejected.

57. The second contention raised by the Second-Party No. 1 is that the Project Allowance which was given to the employees is part of their regular salary and, therefore, cannot be withdrawn. This contention is not correct. In the first place, the documents sanctioning the Project Allowance including Ex. P/3, clearly show that the Project Allowance was sanctioned not as a permanent grant to the workmen but only for a

limited time. This point has already been discussed in detail and, therefore, need not be discussed in detail again. In the second place, the Advertisement No. 3/72, Ex. D/19, and the Memorandum of the offer of appointment, Ex. D/20, clearly show that pay and allowances were separately shown. The methods in which the allowance has been specified in these advertisements clearly show that Project Allowance was quite different from pay. In the third place, it is worthy of note that Project Allowance was also given to the employees of N.C.D.C. Korba but that was withdrawn in 1967, in the very year in which this allowance was provided for the workmen of the First-Party. It is also worthy of note that the Project Allowance was also given to Officers of the Company getting more than Rs. 1000/- per mensem. That has already been withdrawn. If the Project Allowance could rightly be held to be part of the salary, it is obvious that the employees of N.C.D.C. Korba and the Officers of the Company would not have allowed it to be withdrawn and would have raised the contention that it was part of their salary. Though the effect of not raising the said contention is not conclusive against the second-parties, yet along with other circumstances it is a factor to be taken into account.

58. Some of the witnesses of Second-Party No. 1 have referred to the constructional activities for Smelting and Fabrication Plant. Shri M. C. Khan (P.W.8) has explained that these activities are conducted by the contractors and only supervision is done by the personnel of the Company. The fact that some constructional activities are going on does not in any manner affect the question which has to be decided in this case namely, as to whether the present employees have the benefit of such facilities that Project Allowance may be allowed to be withdrawn in a phased manner. It is plain that considering the magnitude of the work of the Company, some type of constructional activity may always be going on till the Company goes into full production. It may be necessary in future to construct more quarters for the new recruits to be employed. Similarly, other facilities also may be required to be developed for the new entrants of the Company. Merely on the ground of such developments being probable or certain, none of the present facilities can be held to be inadequate.

59. The last point which deserved consideration is as to whether the Management should be bound down to the settlement which was arrived at on 28-3-1973 and which has been referred to above in paragraph 6 of this award. According to the settlement, it was agreed that fifty per cent of the amount of Project Allowance as admissible to be existing employees drawing pay of less than Rs. 1000/- per month as on 31-3-1973 shall be paid to such employees as Personal Pay with effect from 1-4-1973 and it was further agreed that the Personal Pay referred to under the aforesaid term would be adjusted against monetary benefits which would accrue to such employees consequent to their future promotions as and when it arises. In my opinion, it would be illegal and unjust to compel the Company to stick to the aforesaid terms of their settlement. The first reason that I would like to state is that when both the parties agreed to throw the settlement over-board, and invited a decision from the Arbitrator by referring their dispute to him, they cannot be allowed to fall back on the said agreement when they or any of them failed to satisfy the validity of their claim on merits. It is understandable that the Company agreed to the terms of the said settlement with the idea that they should have good industrial relations with their employees. They may have liked to ignore the merits of the claim for purchasing industrial peace. Further, it cannot be disputed that the payment of Personal Pay at the rate of 50 per cent of the Project Allowance was limited only to such employees who were employed then and this payment would have been required to be made only for a limited period as promotions in foreseeable future were quite likely in the Company which was then in its early stages. It is also worthy of note that if the settlement had been acted upon, this would not have involved liability of

payment of the Project. Allowance in respect of new entrants who, in the course of development, naturally have to be recruited in large numbers. It is further to be noted that the pay-scales of all the employees were revised upwards in the month of November, 1973 and given retrospective effect from 1-1-1973. The result of this revision, according to Shri K. L. Kumar (P.W.1) was that the employees got the benefit ranging from about Rs. 40/- per month to about Rs. 150/- per month. For all these reasons, the Company cannot be directed to stick to the terms of settlement, Ex. D/2 and Ex. D/3, specified in Paragraph 6 of this award.

60. Another contention which has been strenuously raised is that it will be a great hardship for the workmen if they are deprived of the Project Allowance at this stage when the things and essential commodities are selling at a phenomenal rate. It is true that all the workers would be put to trouble and inconvenience if they are deprived of the Project Allowance at this stage. I do not doubt at all that the workers would have to suffer hardship if they are deprived of the Project Allowance partly or fully. However, my difficulty as an Arbitrator on the issues referred, is that as it is clear by the perusal of the material on record and the intention which was there behind granting the Project Allowance that it was granted for a defined purpose and was made admissible only for compensating the staff for lack of particular amenities, I cannot extend by my action the grant, of Project Allowance for different purpose altogether than what was contemplated. It may be that the staff of the employees of the Company may be entitled to higher dearness allowance, however, that will be a different matter altogether. The Project Allowance was given for amenities such as housing, schools, markets, dispensaries etc. The word 'etc.' cannot be interpreted to cover those case which were outside the original intention. At best, it can be applied to *ejusdem generis* purposes. I would, therefore, hold that the Company has made out a case for a phased withdrawal of the Project Allowance in as much as the facilities which have become available to the staff by now are adequate in all respects except the facility of transport for the workmen of Phutka Pahar. I am of the opinion that withdrawal of the Project Allowance in a retrospective manner would work extreme hardship for the workmen. The Company itself considered this aspect and decided to effect withdrawal of the said allowance in a phased manner and not with immediate effect. I am, therefore, of the opinion that the withdrawal of Project Allowance should reasonably be affected only in a phased manner.

61. The question of the withdrawal of Project Allowance came for consideration before the 3rd Pay Commission. In its report, a para of which is marked as Ex. P/6, it was observed,—

"It has been urged by the unions and the associations that the project allowance should not be withdrawn, but be merged with pay, as the employees experience hardship when the allowance is withdrawn. We are unable to accept the demand for the merger of project allowance with pay as this would go against the very rationale for the grant of this allowance. We, however, recommend that the process of withdrawal of the project allowance in a phased manner should begin only after certain facilities by way of provision of schools, markets, medical facilities and reasonable housing facilities available within the project area or in its proximity. In fact the phased reduction in the quantum of project allowance or its final withdrawal should be linked with the progress made with the provision of the above-mentioned facilities and amenities."

I share the view expressed by the Pay Commission.

62. The last point for consideration is as to whether withdrawal of Project Allowance in part or full with effect from 1-4-1973 is justified and proper. I would not like to

attach much weight to the date 1-4-1973, which is stated in this issue, as I have already held that it would not be proper to direct any withdrawal of the Project Allowance in retrospective manner. It is true that most of the facilities which I have held to be adequate while discussing the first issue had come into existence before 1-4-1973. The only important facilities which were subsequently introduced are,—(1) the addition of two doctors, (2) the E.C.G. Machine, (3) two ambulance cars in the Hospital at Balco Township and (4) the introduction of Xth and XIth Classes in the Balco High School from 1973. Obviously these classes must have introduced from the month of June or July, 1973.

63. I, therefore, make the following award and direct the withdrawal of the Project Allowance in the following manner:—

- (1) 30 per cent of the Project Allowance will be withdrawn one month after this award becomes effective. The first cut of 30 per cent will be made from the salary payable to the staff of the Company getting less than Rs. 1000/- in the next month after the award has become operative.
- (2) A further cut of 10 per cent in the Project Allowance would be made in the month following the cut of 30 per cent and further cuts of 10 per cent in the said allowance will be made in the subsequent following months till the Project Allowance is fully withdrawn and is reduced to zero level for the staff of the Company employed at Balco Township, Korba and Mining Site at Amarkantak.
- (3) However, after withdrawing 80 per cent of the Project Allowance admissible to the workmen of Phutka Pahar drawing a salary of less than Rs. 1000/- per month in the manner specified above, the last two cuts of 10 per cent each (totalling 20 per cent of the total Project Allowance) shall not be made till,—
 - (1) either the Company provides bus-service for two days more in a week than what it is already providing to them on Sundays of every week. If the Company provides bus-service for two days more, it would be entitled to charge a fare which will not be more than 75 per cent of the fare charged for similar distances by M.P.S.R.T.C., or
 - (2) When the M.P.S.R.T.C. or any other bus service runs a regular bus service from Phutka Pahar to Korba and/or Balco Township and back at least for three days in a week.

(Sd.) S. P. BHARGAVA,

Arbitrator.

Indore, dated the 6th February, 1975.

[No. L-29013/1/73-LRIV/DIII/B]

D. BANDYOPADHYAY, Jt. Secy.

